

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 945 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI and

Hon'ble MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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URMILABEN WD/O PARSOTTAMDAS

Versus

LALJI VERSHI SHAVLA  
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Appearance:

MR SB VAKIL for Petitioners

MR PV NANAVATI for Respondent No. 1, 2, 3  
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CORAM : MR.JUSTICE S.M.SONI and  
MR.JUSTICE H.R.SHELAT

Date of decision: 14/08/98

ORAL JUDGEMENT

Appellants original-claimants have filed this appeal against the judgment and award dated 21st July 1980 passed by the Motor Accident Claims Tribunal, Surat in Motor Accident Claim Petition No. 173 of 1979. The learned Tribunal has awarded Rs. 10,250/- with interest at the rate of 6% p.a. from the date of claim petition

and proportionate costs to each of the claimants. This award is challenged on the ground that it is on a very lower side so far as the datum figure is concerned and also on the question of multiplier.

2. Heard learned advocates, Mr. A.M. Kapadia for Mr. S.B. Vakil and Mr. P.V. Nanavati for respondents. The case of the claimants before the Tribunal is that the deceased aged 40 was working in Batlawala factory and was earning Rs. 600/- per month and was also earning Rs.200/per month by repairing machines during off time. To substantiate this say, one Mr. Rasiklal Chimanlal, driver of M/s. B.S. Batlawala & Company is examined. He had also produced the necessary register to show the income and the salary of the deceased Purshottamdas. The Tribunal, taking into consideration the cross-examination of the said witness, has not accepted the said documents to be relied on for the purpose of salary of the deceased. The reason assigned is that the name of the deceased appeared last amongst the employees of Batlawala & Company. It was found to be in different 'Ink' and by that written at a stretch at all the places. According to the said witness, the payment was made by obtaining the signature on the Revenue Stamp of 0.20 ps., and the pay of June 1978 was drawn by claimant No.1, widow of the deceased. Though it is alleged that the deceased was an employee of M/s. B.S. Batlawala & Company, Exh.46 the Muster Roll does not show the name of one Kachrabhai Jivanji who is shown to have been paid Rs. 600/- per month, vide Exh. 46. The name of the deceased did not appear in Exh.46 and the explanation advanced is that as he was a Supervisor his name is not there. Now, if deceased was working as a Supervisor in the said factory, his name should have been entered in Exh. 46, the Muster Roll. In view of this confused evidence, it is doubtful whether deceased was an employee of the said Batlawala & Co. However, the Tribunal has assumed that he was an employee of Batlawala & Co. Tribunal has accepted that he must be earning Rs. 450/- per month. There is no specific evidence to show that the deceased was doing any miscellaneous work as alleged. It is proved that deceased was doing some weaving and miscellaneous work and therefore the Tribunal has assessed his income, in absence of any specific evidence, at Rs. 450/- per month. The deceased might be spending 1/3rd of the income for himself and spent 2/3rd for the members of his family which would be a pecuniary loss to the members of the family, which comes to Rs. 300/- per month.

3. The Tribunal has given a multiplier of 10 though the deceased was 40 years of age. A person of 40 years

of age, normally would maintain the members of his family, more particularly when widow is 38 years old and other children are minors ranging from age 4 to 14 for a pretty long period. In our opinion, multiplier should have been 15 instead of 10. If multiplier of 15 is given, then it will take proper care of the dependents. We, therefore, do not agree with the contention of learned advocates for the appellants that the income should be on the higher side than Rs. 450/-. We also do not agree with the contention of Mr. Nanavati for the Insurance Company that the multiplier applied is just and proper. We therefore hold that the multiplier applied should be 15. Calculating on this basis, the claimants should be entitled to a multiplier of 15 against a datum figure of Rs. 3,600/- per year which would come to Rs. 54,000/-. Thus, claimants will be entitled to an additional amount of Rs. 18,000/-. The amount of Rs. 5,000/- awarded towards the "Loss of Expectation of Life" does not call for any interference. Thus the claimants will be entitled to an additional amount of Rs.18,000/with proportionate costs and interest at the rate of 6% awarded by the Tribunal.

4. In the result, the appeal is partly allowed. The respondents are directed to deposit with the Tribunal an additional amount of Rs. 18,000/- with proportionate costs and interest at the rate of 6% from the date of application within six weeks from today. On such deposit, the Tribunal may pass necessary order as to disbursement. There shall be no order as to costs.

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(rmr).